APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,262	02/05/2007	Aaron Lee Davidson	0289917.00123US1	9473

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EXAMINER
RAHMAN, MOHAMMAD N

ART UNIT	PAPER NUMBER
2161	

NOTIFICATION DATE	DELIVERY MODE
10/06/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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	Application No.	Applicant(s)
Advisory Action **Before the Filing of an Appeal Brief**	10/564,262	DAVIDSON ET AL.
	Examiner	Art Unit
	MOHAMMAD N. RAHMAN	2161

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>24 August 2010</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

     Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

     NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: <u>1-14 and 24-44</u>.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Apu M Mofiz/
Supervisory Patent Examiner, Art Unit 2161

U.S. Patent and Trademark Office

PTOL-303 (Rev. 08-06)   **Advisory Action Before the Filing of an Appeal Brief**   Part of Paper No. 20100930

 Continuation of 11. does NOT place the application in condition for allowance because: Regarding claims 1 and 30, applicant stated on page 12, "Applicants submit that Gudjonsson does not teach or suggest at least elements (d), (e), or (f) "

          However, Examiner disagrreed and points out that Gudjonsson teaches, d) for a predetermined user, searching each of the plurality of user's connection data in the database for the predetermined user's unique network user identifier to identify all users that have the predetermined user's unique network user identifier in their connection data ("Users are registered within some specific cluster and given a unique user ID. This user ID along with the ID of the cluster (CID) constitutes a globally unique user ID (UID) within the whole system" at col. 2, lines 51-67 and also see at col. 7, lines 35-67, col. 8, lines 47-65 and col. 9, lines 1- 7, since the users are already being predetermined by providing a user ID),
e) storing the network user identifiers of the users located by the search of step d), to provide set of data for the predetermined user representative of one or more other user's relationship with the predetermined user (see at "abstract" and "locating the device address of other users to communicate with, and establishing a communication session with that device...users usually locate other users by finding them in their local address book, and then establish either a voice session..." at col. 1, lines 18-29 and "The user mapping function (UMF) 25 is a piecewise-defined function which specifies on which US the service instances for a given UID are located.." at col. 21, lines 50-64. Also see col. 2, lines 51-67, col. 7, lines 35-67 and col. 8, lines 47-65, since the users identifiers are being already predetermined and stored in a database, therefore, the relationship between the users are being identified).

f) providing data from the data setoff step e) to a network access device associated with the predetermined user (see at "abstract" and "a first user (e.g., user #1) can establish a communications session (e.g., voice chat, text chat, etc.) with a second user (e.g., user #2) using one or more clusters of the network..." at col. 24, lines 32-66. Also see at col. 1, lines 18-29, col. 2, lines 51-67, col. 18, lines 18-59, col. 7, lines 35-67 and col. 33, lines 31-48, thus, a network access device associated with the predetermined user is being establishing a communications session)..

          Regarding claim 31,. Applicant also stated on page 13, "Applicants submit that Gudjonsson does not teach or suggest at least the processor, memory device, and the fiarther feature of the processor in the wherein clause of claim 31". However, about processor, Gudjonsson reference teaches "ractically, this means that the back-end may have virtually unlimited scalability as applies to splitting load across multiple clusters, and within each cluster between machines, processors, processes, threads etc., and load balancing..." at col. 14, lines 13-20. Also, about memory, Gudjonsson discloses, "Both of these data structures can be considered volatile and are kept in memory for efficiency reasons" at col. 26, lines 40-58.

          In light of the foregoing arguments the 35 U.S.C. § 102 (b) rejections are hereby sustained.